

ESTTA Tracking number: **ESTTA377907**

Filing date: **11/10/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Godfrey Entertainment, Inc.
Granted to Date of previous extension	11/10/2010
Address	14852 South Heritage Crest Way Bluffdale, UT 84065 UNITED STATES
Attorney information	Peter M. de Jonge Thorpe North and Western, LLP. P.O. Box 1219 Sandy, UM 84091-1219 UNITED STATES murphy@tnw.com, docket@tnw.com, barraclough@tnw.com, dejonge@tnw.com Phone:801-566-6633

### Applicant Information

Application No	78875050	Publication date	07/13/2010
Opposition Filing Date	11/10/2010	Opposition Period Ends	11/10/2010
Applicant	Lloyd IP Limited Langlands, Pallet Hill Penrith, CA11 OBY UNITED KINGDOM		

### Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Protective helmets for motorcycle riding; motorcycle helmets; protective clothing and footwear for protection against accidents; protective clothing and footwear for protection against motorcycle accidents; protective motorcycle suits for protection against accidents; gloves for protection against accidents
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3210835	Application Date	01/27/2006
Registration Date	02/20/2007	Foreign Priority Date	NONE

Word Mark	NITRO CIRCUS
Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00 Entertainment services, in the nature of organizing, performing and competing in action sporting events, namely, on and off road car and truck racing, motorcross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, bmx, skateboarding, skiing, surfing, wakeboarding competitions and events; film distribution and editing; motion picture film production; production of video disks

U.S. Registration No.	3222025	Application Date	01/27/2006
Registration Date	03/27/2007	Foreign Priority Date	NONE
Word Mark	NITRO CIRCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00 Downloadable films provided via video-on-demand, prerecorded digital video disks, prerecorded compact disks, pre-recorded CD's, video tapes, laser disks and DVD's all featuring action sports and events for on and off road car and truck racing, motorcross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, bmx, skateboarding, skiing, surfing, wakeboarding, and other sports		

U.S. Registration No.	3255260	Application Date	01/27/2006
Registration Date	06/26/2007	Foreign Priority Date	NONE
Word Mark	TRAVIS AND THE NITRO CIRCUS		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2004/01/00 First Use In Commerce: 2004/01/00 series of downloadable films provided via video-on-demand, pre-recorded digital video disks, pre-recorded compact disks, pre-recorded CD's, video tapes, laser disks and DVD's all featuring action sports and events for on an off road car and truck racing, motocross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, BMX, skateboarding, skiing, surfing, wakeboarding, and other sports

U.S. Registration No.	3782822	Application Date	01/27/2006
Registration Date	04/27/2010	Foreign Priority Date	NONE
Word Mark	NITRO CIRCUS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/05/00 First Use In Commerce: 2007/05/00 Clothing, namely, shirts, t-shirts, hooded sweatshirts, sweatshirts, jackets, beanies, caps, hats, and tanktops		

Attachments	78800828#TMSN.jpeg ( 1 page )( bytes ) 78800808#TMSN.jpeg ( 1 page )( bytes ) 78800782#TMSN.jpeg ( 1 page )( bytes ) 78800752#TMSN.jpeg ( 1 page )( bytes ) 36.pdf ( 5 pages )(182729 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/petermdejonge/
Name	Peter M. de Jonge
Date	11/10/2010

Peter M. de Jonge  
Jed H. Hansen  
J. Abby Barraclough  
THORPE NORTH & WESTERN, L.L.P.  
8180 South 700 East, Suite 350  
Sandy, Utah 84070  
Telephone: (801) 566-6633  
Facsimile: (801) 566-0750

Attorneys for Godfrey Entertainment, Inc.  
Opposed Mark: NITRO  
U.S. Trademark Application Serial Number 78/875,050

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Godfrey Entertainment, Inc.  Opposer,  v.  Lloyd IP Limited  Applicant.	Opposition No. _____
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**NOTICE OF OPPOSITION**

Godfrey Entertainment, Inc. (hereinafter referred to as "Opposer"), a corporation organized and existing under the laws of the State of Utah, having a principal place of business at 14852 South Heritage Crest Way, Ste. D, Bluffdale, Utah 84065, believes it will be damaged by the registration of the mark NITRO in Application Serial No. 78/875,050, and opposes and alleges the following:

1. Upon information and belief, Lloyd IP (hereinafter "Applicant"), an United Kingdom Private Limited Company having an address at Langlands, Pallet Hill, Penrith, United

Kindgom CA11 OBY, seeks to register the mark NITRO as a trademark for “protective helmets for motorcycle riding; motorcycle helmets; protective clothing and footwear for protection against accidents; protective clothing and footwear for protection against motorcycle accidents; protective motorcycle suits for protection against accidents; gloves for protection against accidents” in Class 9.

2. Opposer is the owner of U.S. Trademark Registration No. 3,210,835, for the mark NITRO CIRCUS, for use in connection with “entertainment services, in the nature of organizing, performing and competing in action sporting events, namely, on and off road car and truck racing, motorcross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, BMX, skateboarding, skiing, surfing, wakeboarding competitions and events; film distribution and editing; motion picture film production; production of video disks” in International Class 41.

3. Opposer is currently using and has continuously used the mark NITRO CIRCUS in Registration No. 3,210,835 in interstate commerce since at least as early as January of 2004.

4. Opposer is the owner of U.S. Trademark Registration No. 3,222,025, for the mark NITRO CIRCUS, for use in connection with “downloadable films provided via video-on-demand, prerecorded digital video disks, prerecorded compact disks, pre-recorded CD’s, video tapes, laser disks and DVD’s all featuring action sports and events for on an off road car and truck racing, motorcross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, BMX, skateboarding, skiing, surfing, wakeboarding, and other sports” in International Class 9.

5. Opposer is currently using and has continuously used the mark NITRO CIRCUS in Registration No. 3,222,025 in interstate commerce since at least as early as January of 2004.

6. Opposer is the owner of U.S. Trademark Registration No. 3,255,260, for the mark TRAVIS AND THE NITRO CIRCUS, for use in connection with “downloadable films provided via video-on-demand, prerecorded digital video disks, prerecorded compact disks, pre-recorded CD’s, video tapes, laser disks and DVD’s all featuring action sports and events for on an off road car and truck racing, motocross, supercross, racing, skydiving, cliff jumping, cliff diving, snowboarding, BMX, skateboarding, skiing, surfing, wakeboarding, and other sports” in International Class 9.

7. Opposer is currently using and has continuously used the mark TRAVIS AND THE NITRO CIRCUS in Registration No. 3,255,260 in interstate commerce since at least as early as January of 2004.

8. Opposer is the owner of U.S. Trademark Registration No. 3,782,822, for the mark NITRO CIRCUS, for use in connection with “clothing, namely, shirts, t-shirts, hooded sweatshirts, sweatshirts, jackets, beanies, caps, hats, and tanktops” in International Class 25.

9. Opposer is currently using and has continuously used the mark NITRO CIRCUS in Registration No. 3,782,822 in interstate commerce since at least as early as May of 2007. Opposer’s marks in U.S. Registration Nos. 3,210,835, 3,222,025, 3,255,260 and 3,782,822 are collectively referred to herein as the NITRO CIRCUS Marks

10. Opposer has built up substantial good will in the NITRO CIRCUS Marks.

11. Upon information and belief, Opposer’s date of first use of one or more of the NITRO CIRCUS marks is prior to the date of first use of Applicant’s mark NITRO.

12. Registration of Applicant’s mark NITRO is likely to damage Opposer in that Applicant’s mark, when used on or in connection with the identified goods, so resembles Opposer’s NITRO CIRCUS Marks as to be likely to cause confusion, to cause mistake or to

deceive. Such confusion is likely to falsely suggest a connection between Applicant and Opposer.

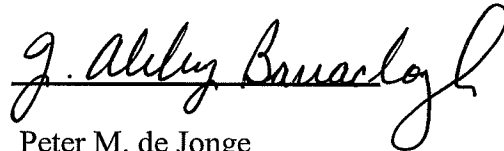
13. Upon information and belief, Applicant selected its mark with full knowledge of Opposer's marks.

WHEREFORE, Opposer requests that Application Serial No. 78/875,050 be refused registration, that no registration be issued to Applicant for the mark NITRO and that this Opposition be sustained in favor of Opposer.

That statutory Opposition Filing Fee of \$300.00 is included herewith. Please charge any additional fees and credit any overpayment to Deposit Account No. 20-0100.

DATED this 10<sup>th</sup> day of November, 2010.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Abby Barraclough", written over a horizontal line.

Peter M. de Jonge  
Jed H. Hansen  
J. Abby Barraclough  
Attorneys for Opposer



CERTIFICATE OF SERVICE

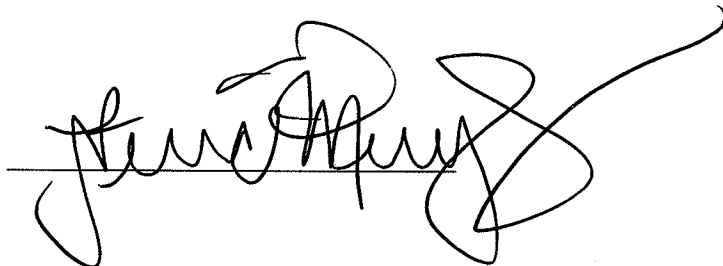
The undersigned hereby certifies that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served upon Applicant's attorney of record by the method(s) indicated:

Amy E. Carroll  
Drinker Biddle & Reath LLP  
1500 K St NW, Ste. 1100  
Washington, D.C. 20005-1209

Facsimile: 202-842-8465

☐ Hand Delivery  
☒ United States Mail  
First Class, Postage Pre-Paid  
☐ Overnight Delivery  
☐ Fax Transmission  
☐ Electronic Mail

on this 10 day of November, 2010.

A handwritten signature in black ink, appearing to read "Amy E. Carroll", is written over a horizontal line.